

Colorado Department of Labor and Employment
Performance Pay Program
Implementation Plan
May 2, 2004

1. Purpose and Basis

The CDLE Performance Pay Program establishes a management system that will create an ongoing increase in productivity by improving communication, recognizing improved performance and rewarding employees based on their accomplishments. The Colorado Department of Labor and Employment (CDLE) Performance Pay System (PPS) Implementation Plan is based on CRS 24-50-104 and other applicable statutes, the Performance Pay System plan published by the Executive Oversight Committee on August 31, 2000 with subsequent revisions and Personnel Board Rules and Personnel Director's Administrative Procedures.

2. Methodology

- a. CDLE Management Team established employee action groups in the areas of Planning and Implementation, Dispute Resolution Process, Communications, and Training. The groups built detailed recommendations for implementation, review, communications and training. The recommendations were designed to increase employee acceptance.
- b. Appointing Authorities and designated raters are responsible for communicating the department's performance management component to their employees. The Office of Human Resources/ Personnel conducts classes and does consulting to assist the management staff in this function.
- c. The Management Team also established a steering committee to monitor the implementation of the plan, oversee the quality of the performance pay program and make recommendations on a regular basis. The current steering committee includes Don Peitersen, Director of the CDLE Division of Employment and Training, Glenda Barry, CDLE Director of the Office of Human Resources, Steve Uretsky, Director of the Information Management Office, Eileen Diepenbrock, Budget Manager, Shannon Weston, Chief of CDLE Staff Development, and Bob Cropp, Human Resources Project Coordinator.

3. Timelines and milestones

- a. The first step in the performance management process is the development of a strategic plan by the department management team. Updates to this plan, if necessary, will be complete by the end of August each year in conjunction with the budget submission to the Office of State Planning and Budget. Divisions will develop their own business plans based on the department strategic plan. Work units will develop plans based on their next higher level's plan. By February 1st the unit

planning cycle will be completed and individuals/ teams may begin drafting performance plans.

b. An experienced employee or team makes the first draft of the individual performance plan and presents it for approval to the supervisor/ manager. This first meeting should happen during March. Supervisors will prepare plans for inexperienced employees (as a rule of thumb, this would mean an employee in the job less than three months but circumstances will vary depending on job complexity and prior experience of the employee.) There may be additional planning sessions but the plan should be submitted for the reviewer's examination and implemented by April 1st unless delayed by a dispute. The reviewer is the direct manager of the supervisor/ manager. Disputes over the plan should be settled during the month of April. Disputed plans will be mediated/ settled and implemented no later than May 1st. The supervisor/ manager is responsible for the timely completion of these steps. The supervisor/ manager will impose a plan if the subordinate does not complete the plan or agreement cannot be reached on a plan on time. Responsibility will fall on the reviewer if the supervisor/ manager fails to meet the deadline. If both these parties fail to produce a plan by May 1st, the reviewer's supervisor is responsible for completing the plan and on up the chain of command until the plan is completed as required by law. The plan is not an end in itself. It is a working document to improve efficiency of operations during the year.

A minimum of one in-progress review must be conducted during the plan year, preferably at the half-way mark, during the month of October. We recommend plan progress and the possibility of needed changes be reviewed each quarter.

c. Proposed evaluations will be completed by employees/ teams and presented to supervisors no later than March 31st. It is recognized that many plans will be completed before March 31st and evaluations of those plans should be conducted as soon as practicable. **Supervisors/Managers must consult with reviewers before presenting the final evaluation to their employees.** Appointing authorities must conduct a review process to monitor the quality and consistency of performance ratings within their agency before final ratings are provided to employees. After final evaluations with employees/ teams are conducted the scores should be submitted to the Office of Human Resources and Personnel (OHR/P) by May 1st. If the supervisor/ manager fails to evaluate the plan by May 1st then the reviewer is responsible for completing the evaluation. If neither the supervisor/ manager nor the reviewer does an evaluation by May 15th then the reviewer's supervisor is responsible for completing the evaluation and on up the chain of command until the rating is completed as required by law. If a rating is not given, the overall evaluation is satisfactory until a final rating is completed. Recommendations for Level 4 evaluations are also due to OHR/P by May 15th. The lack of a plan or rating can be appealed through the Dispute Resolution System. Classified supervisors/ managers who fail to evaluate their employees by July 1 are subject to action under CRS 24-50-104. Absent extraordinary circumstances, failure to plan and evaluate in accordance with the department's established timelines results in a corrective action and ineligibility for a performance salary adjustment. If the individual performance plan or evaluation is not completed within 30 days of the corrective action, the designated rater shall be disciplinarily suspended in increments of one workweek following the pre-disciplinary meeting.

d. Prior to the payment of annual performance salary adjustments, the state Director of Personnel will specify and publish the percentage **ranges** for performance levels based on the available **statewide** performance pay fund. CDLE has not established any quota or forced distribution process for

determining the number of ratings in any of the four performance levels.

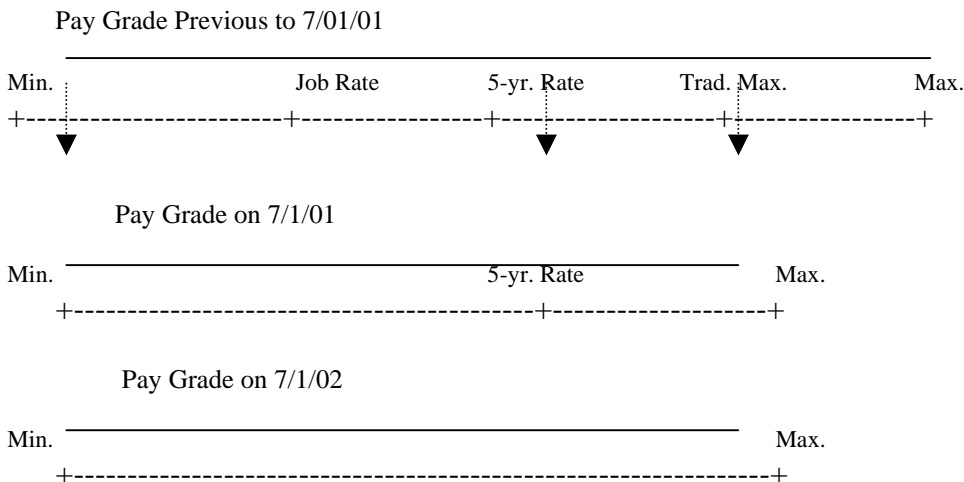
e. The Department will report required information (e.g. distribution of ratings, distribution of performance salary adjustments, number of disputes) to the Division of Human Resources by a date specified by DPA.

4. Performance Pay

a. CDLE Method of Allocation

All employees in equivalent circumstances will receive equivalent pay treatment. As a result there will be no special allocation of funds among divisions except as necessary to balance monies received through program funding from State and Federal sources. All appropriated monies will be distributed.

Job rate and old maximum were eliminated as of July 1, 2001. Traditional maximum became the new maximum and continues to be the limit on base salary in a grade. The 5-year rate was retained for fiscal year 01-02 but was never used in calculating a performance pay payout.



Pay between the minimum and the maximum is base pay. The change in pay grade structure affects salary calculations because the maximum is the comparison point in determining the type of movement and salary limitations. For example, the limit on base salary for hires, upward and lateral movements will be the maximum of the range. The maximums of the current and new pay grades will determine whether a movement is upward, downward, or lateral. The limit on saving current base salary for non-disciplinary and disciplinary demotions is the maximum of the new pay grade.

Anniversary increases ceased as of June 30, 2002. Performance salary adjustments began with the July, 2002 pay period. Until that time, eligible employees continued to receive anniversary increases for one last fiscal year (FY 01-02).

Employees hired on, or after, July 1, 2001, do **not** have anniversary dates **for pay purposes**. This includes former employees who were rehired during fiscal year 01-02. Employees as of 7/1/01 retained anniversary dates for one more fiscal year and then current provisions continued to apply, e.g., adjustments for leave-without-pay.

b. Award Eligibility and Distribution

Employees who are rated as satisfactory or above are eligible for a performance salary adjustment. Awards for employees who received a salary increase during the fiscal year and new employees will be prorated based on the fiscal year. For example, a person hired on October 1 would be given nine twelfths of a full increment for whatever rating level they attained. If a person worked here less than three months, the highest rating that person could achieve would be a Level 2. The reason is that there is just not enough time to give that person a competitive rating. Employees must have a final performance review and final rating, and be employed in the state personnel system on July 1 to be eligible for payment of performance salary adjustments. Employees who received a performance evaluation in another department before transferring into CDLE will have that evaluation used in the computation of their PPS score and receive performance salary adjustments under the provisions of the CDLE plan.

For employees whose current salary is within the pay range, the award will be base building, that is, will be added to the employee's base pay. Base building increases are permanent increases and continue as part of the employees' pay from the effective date forward.

If salary is at the maximum of the pay range (or in saved pay) and overall performance is Level 2 or 3, the employee is not eligible for an award. An employee whose current salary is at the maximum of the range and overall performance is Level 4 (outstanding), will be granted a one-time lump sum award. One-time lump sum awards are paid in the July payroll. Further information about one-time lump sum awards is covered in paragraph 4.d.

An employee granted an annual performance salary adjustment will not be denied the adjustment because of a corrective or disciplinary action issued for an incident after the close of the previous performance cycle.

- c. Within an individual or team plan the rating scale for each objective is: "1" indicates failure to meet the objective or competency; "2" indicates meeting the objective or competency; and "3" indicates exceeding the objective or competency. The ratings of each objective/ competency are then weighted according to their importance to achieve a maximum possible point total of three hundred. A score of one hundred ninety-nine or less indicates the employee "needs improvement" (not eligible for a performance salary adjustment.) Point totals for "Satisfactory" (Level 2) will be 200 to 249 and "Above Standard" (Level 3) will be 250 to 300. Selection of "Outstanding" (Level 4) will be done by the department Management Team. There are no quotas or forced distribution processes for determining the number or percentages of employees in any of the four performance levels.

Definition of Level 4: This rating represents consistently exceptional and documented performance or consistently superior achievement beyond the regular assignment. Employees make exceptional contributions that have a significant and positive impact on the performance of the unit or the

organization and may materially advance the mission of the organization. The employee provides a model for excellence and helps others to do their jobs better. Peers, immediate supervision, higher-level management and others can readily recognize such a level of performance.

Definition of Level 3: This rating level encompasses the accomplished performers who consistently exhibit the desired competencies effectively and independently while frequently exceeding expectations, standards, requirements, and objectives of the job assigned. Their work has a documented impact beyond the regular assignments and performance objectives that directly support the mission of the organization.

Definition of Level 2: This rating level encompasses a range of expected performance. It includes those employees who exhibit competency in the work behaviors, skills, and assignments for the job as well as those employees who are successfully developing in the job. These employees are meeting all the expectations, standards, requirements, and objectives on their performance plan and, on occasion, may exceed them. This is the employee who reliably performs the job assigned.

Definition of Level 1: This rating level encompasses those employees whose performance does not consistently and independently meet expectations set forth in the performance plan as well as those employees whose performance is clearly unsatisfactory and consistently fails to meet requirements and expectations. Marginal performance requires substantial monitoring to achieve consistent completion of work, and requires more constant, close supervision. Though these employees do not meet expectations, they may be progressing satisfactorily toward a level 2 rating and need to demonstrate improvement in order to satisfy the core expectations of the position.

Level 4, the “Outstanding” level (informally called “Peak Performer”) is unique and difficult to achieve because it represents consistently exceptional performance or achievement beyond the regular assignment. CDLE employees will be eligible to be considered for the rating of “Outstanding” by meeting at least one of the following two sets of criteria and being forwarded by their appointing authority for review and approval by the Department Management Team: consistently exceeding performance standards and/or making a significant contribution that is unique or unusual. For purposes of this review the Management Team will be facilitated by a designated Division Director. The intent is for the Executive Director to act as an independent reviewing authority and further enhance equitability in the system. The rating supervisor/ manager will compose a narrative explaining the employee’s accomplishment and forwarding it through the work unit management team to the appointing authority. The work unit management team will review the recommended evaluation and narrative to decide if the submission meets the standard of equitability within the work unit. Employees whose performance rating is at or above 275 **may** be recommended for “Level 4” under either set of criteria. Employees whose performance rating is less than 275 may qualify only under criteria b. Supervisors must use these criteria during the planning process to ensure the employee understands what constitutes “Level 4”. Under this system there is no arbitrary limit to the number of employees who can achieve the “Level 4” rating. Employees receiving a “needs improvement” rating in any objective or competency are not eligible for nomination to “Level 4.”

- (a) Consistently exceeding performance expectations

Under this criterion, “Level 4” performers consistently exceed standards in their objectives and competencies including the core competencies. This consistent, exceptional performance is maintained throughout the duration of the rating period. Employees recommended for “Level 4” must consistently exceed performance expectations in at least five of the following ten areas:

1. Taking the initiative to identify and complete unassigned work that contributes to the mission of the organization.
2. Volunteering and achieving success in solving problems and perform work outside their scopes of responsibility.
3. Exerting persistent effort above and beyond what is expected in order to meet business objectives.
4. Trying new solutions with an aggressive, go-getter attitude.
5. Completing work objectives ahead of schedule.
6. Completing work objectives using fewer financial resources, personnel, equipment or other resources than allocated.
7. Putting extra effort into improving work processes and/or exceeding product specifications.
8. Exceeding customer expectations regarding the quality of service provided.
9. Operating as team players by assisting others in accomplishing their work objectives.
10. Exceptionally high production levels within a measurable activity.

Employees with a point total at or above 275 on the Individual Performance Plan will be eligible for consideration for “Level 4” unless, and except for unusual circumstances, the evaluation includes a “needs improvement” rating in any objective or competency. Under this criterion of “Level 4” employees **consistently** perform at this higher level on a project-after project, activity-after activity basis across most objectives and competencies.

(b) Making a significant contribution that is unique or unusual.

Under this criterion of “Level 4” employees make a unique or unusual contribution that **significantly** advances the mission of the organization. The selected employee meets performance expectations in most objectives and competencies but may exceed performance expectations in a single objective or competency during the rating period. This unique or unusual contribution provides a **significant** benefit to the organization. Any supervisor/ manager may submit any employee for consideration as an “Outstanding” under (b) provided the employee is not under a corrective action or performance improvement plan. Supervisors and employees must alert one another whenever a significant contribution is about to commence, is in progress or has occurred. Examples of a unique contribution that may contribute to a rating of “Outstanding” include:

1. Exceptionally high production levels within a measurable activity.
2. Innovation of or improvement to a process that contributes significantly to increased quality, effectiveness or efficiency.
3. Design and implementation of product enhancements that significantly improve the flexibility, safety, or ease of use of that product.
4. Identification and implementation of an important new technology.
5. Exceptional response to an unforeseen event.

A single unique or unusual contribution during a rating period does not necessarily provide sufficient evidence for a “Level 4” rating. Other aspects of the employee’s performance are also taken into

consideration when determining the final performance. Adequate documentation for a contribution under criterion b. will need to be presented at the time of review at the rating official level.

d. CDLE will perform individualized prorating of increases for employees who have not completed a fiscal year with the department as of July 1.

To distribute 100% of the money allocated for PPS increases, we are using an automated program originally devised at the Department of Revenue and upgraded for our use by Ralph Price in CDLE's IMO. All awards below pay range maximum are base building. Awards in excess of pay range maximum will be awarded only to employees attaining a "Level 4" rating and those awards will be one-time lump sums. Employees attaining a "Level 4" rating may have a base-building award and a one-time lump sum award if their award exceeds the base range on their individual wage scale. Employees will be notified of the amount of their award and if it is base building and/or a one-time lump sum prior to the July pay date. Performance salary adjustments will be a percentage of salary, effective on the statewide common date of July 1. Source of funds, method of funding, and length of state service will not be used as criteria for distinguishing between one-time lump sum awards and base-building performance salary adjustments. One-time lump sum awards that are granted will be paid in full, even if the employee terminates employment during the payout year.

e. Fairness in rating

A great deal of work went into devising the performance evaluation system to be as fair and objective as possible. Each rater will have a reviewer with a twofold responsibility. First, at the time the performance plan is designed, the reviewer will analyze it to ensure it supports the agency's and work unit's business plans and the Department's strategic plan. The review must ensure that the objectives and competencies are: measurable, within the influence of the employee, achievable (challenging yet reasonable and based on historical standards of performance) and realistic. The reviewer's second responsibility is to ensure that evaluation standards are applied consistently at the time of the final evaluation. The reviewer will review the evaluation before the rater presents it to the employee. Periodically, the Department Management Team will review the Department's program, unit business plans and individual performance plans for quality, accuracy and consistency. Pay decisions will be based on the evaluations completed by raters and reviewers and within system boundaries (Payment of awards for those currently at the maximum of their pay ranges is at the discretion of the Executive Director.) Raters are encouraged to consider multi-source assessment processes, where feasible, for evaluating employees.

f. Non-salary Awards

CDLE encourages the use of the non-salary incentives currently available in the state personnel system and in DL 02-06, Non-Monetary Incentives, to supplement salary-based performance salary adjustments.

5. Performance Management

a. The CDLE envisions performance management as a process for establishing and using a shared understanding of objectives and competencies in a participative culture to achieve success for both the

organization and the individual. This process develops our “line of sight” or “focus”.

b. The first phase in implementing performance management is goal analysis. We receive our mission and objectives from the state legislature through the Governor’s office. These are the things we must do by statute and things we need to do to exist as an organization. We analyze these items to develop an understanding of what we should be doing. Everything else is discarded. We develop a mission statement and a vision statement giving an orientation for the future of our organization with organization values. The first two documents describe *what* we are to do. The values statement gives an understanding of *how* things are to be done. The Department Steering Committee decided that “Value” has too many definitions. Because our aim is to “establish a shared understanding” we are using this term (value) only in the context of the Department’s strategic plan and using the term “competencies” in Division business plans, work unit business plans and individual performance plans to describe key behaviors or *how* things are to be done. The last element is to measure progress with critical success factors. There are four basic standards used to measure work: quantity, quality, time and cost. These standards may be restated in terms that align better with our organization vision. Taken together the Department Mission, Vision, Values and Critical Success Factors are referred to as the “Strategic Plan”. The Department Strategic Plan gives general guidance and direction. It confirms old courses and sets new ones; it is a leadership document, it leads. The CDLE Strategic Plan is included as attachment 1.

c. The next step at the division and work unit level is to develop business plans. Division and work unit level business plans document mission, values and objectives expressed in terms of quantity, quality, cost and time (critical success factors); they are management documents, they manage things and people’s activities.

d. The final step in the planning phase is development of the individual performance plan (IPP). Employee involvement is encouraged in the writing of the performance plan. The employee will use the Department, Division, and work unit plans and align these with his/her primary job duties and responsibilities and his/her own intimate knowledge of the job to develop an individual performance plan. These documents should be made available to the employee in a timely manner so s/he may successfully complete the IPP. The employee will have a planning session with the supervisor to finalize the plan. There are four sections in the IPP but only the first two are scored. The maximum point total is 300: rated elements are scored with a “1”, does not meet standards; “2”, meets standards; and “3”, exceeds standards. **Total weights must equal 100 (%) for a maximum possible point total of 300.**

The first section of the plan contains statements of objectives to be accomplished during the year measured by the critical success factors of cost (lower cost per unit), time (reduce cycle time), quality (increase customer satisfaction) and quantity (more accessible products.) For employees rated as individuals this section will be weighted in a range from seventy-five to ninety-five. For employees rated as members of a team this section will reflect team accomplishment and will be weighted at sixty to ninety-five. It is not necessary that every task performed by an employee be listed on the IPP. The purpose of the plan is to give guidance to the employee about what must be done for the unit to achieve its objectives, help set priorities and enable the management staff to determine where an employee fits on the evaluation scale (Level 1, 2, 3 or 4.)

The second section is on competencies. Competencies are how the objectives or job will be done and are expressed in terms such as communication, customer service, innovation, valuing diversity, and so on. The Department of Personnel and Administration (DPA) has designated five core competencies that will be included in all individual and team plans and evaluations and cannot be disregarded in the final overall rating for each employee. Employees in the Division of Employment and Training have seven core competencies developed through consultation with a team from the Mountain States Employers Council. These seven core competencies have been given informal approval to be used in place of the five state core competencies because they are “cross-walked” to the original five. They are, in a sense, expansions on the original five. Additional competencies may be included at the discretion of management. Assessment from multiple sources (For example, surveys, whether formal or informal) of the employee’s performance may be used to increase objectivity in evaluation of competencies. For employees rated as individuals this section will be weighted in a range from five to twenty-five. For employees rated as members of a team this section will reflect individual accomplishment and will be weighted in a range from five to forty.

The numerical total of the scores given for the objectives and competencies will be the total score for the employee for the rated period. The total score will determine where an employee fits on the evaluation scale for pay purposes. The score and any included commentary will also impact decisions concerning promotions, transfers, assignments, schooling and layoffs.

The third section deals with personal development. The development plan is not given a numerical rating. This section does not impact pay but will contribute greatly to morale, future performance gains and development of supervisors/ managers for the state government.

The fourth section of the plan allows for documentation of several interim coaching and feedback reviews. These reviews are an opportunity to note progress and arrange for any additional support needed to accomplish the objectives or competencies. Both parties may record comments during interim reviews. There is one mandatory mid-cycle review but more frequent reviews are encouraged. The end-of-cycle review provides separate space for comments by the employee and the rating official.

All employees must receive a written evaluation at least annually. If an employee has been in position for ninety days or more and changes positions during the performance cycle, an interim rating must be completed and forwarded to the new appointing authority or agency. If an employee has a change in rater during the rated period and the outgoing rater has been in that position for 90 days or more, the outgoing rater must complete an evaluation. At the end of the rated period all the evaluations will be prorated and totaled for the employee’s total score. For example, three months with a rating of 290 ($\frac{1}{4}$ of 290) = 72.5 and eight months with a rating of 245 ($\frac{3}{4}$ of 245) = 183.75 are totaled for a score of 256. Employees’ performance plans should be reviewed continually because objectives will be completed at different times during the year. Emphasis on measurement that is as objective as possible, we believe, is critical for the credibility of performance pay and performance management. It results in a year-round management system. The performance plan is intended to be a working document. A planning meeting between the supervisor and the employee must occur at the beginning of the cycle. Each performance plan will be reviewed between the rater and the rated employee a

minimum of once during the rating period and documented in the plan. The rated employee as well as the rating official may arrange for additional reviews.

A Level 1 or "Needs Improvement" rating denoting unsatisfactory performance will result in a performance improvement plan or, if this is an ongoing problem, a corrective action.

Performance plans for supervisors/ managers will have at least one objective or one competency evaluating the effectiveness of their performance management of their employees. All rater's will be evaluated on his or her performance management of employees.

A copy of CDLE's Performance Planning and Review Form is included as attachment 2.

- e. CDLE's Performance Management System will have some significant effects on Department employees:
 - 1) They will be rated more objectively
 - 2) They will have more control over their jobs
 - 3) They will be better informed about what is happening to them and their organization
 - 4) They will have more opportunities and incentives for personal development
 - 5) With more in-depth guidance and job knowledge they will have the tools, encouragement and incentive to make empowered decisions

6. Dispute Resolution Process.

Included as Attachment 3.

7. Training.

a. The Employee Action Group on Training recommended to the CDLE management team that to give the Performance Pay System (originally Colorado Peak Performance, CPP) the best chance of success all employees in the department should be trained in the system. To the greatest extent possible the manager/ supervisor of the employee should conduct the training. This method of training would accomplish three things; the leaders would become experts on the system, employees would understand and be able to function in the new system and employees would know that CPP has the support of management. Accordingly, CDLE Staff Development trained a cadre of about seventy leaders in performance pay, performance management and planning, tracking and reviewing individual performance. This cadre completed the basic training of the Department in April 1999. Unfortunately, the quality of this training was not consistent. Additional training was conducted by Staff Development. Subsequent individual training for new employees and supervisors in performance management and the dispute resolution process has been designated as mandatory and is being done by the Office of Human Resources.

b. The Employee Action Group for Training recommended that skills training to support PPS should

be given to managers and supervisors. Additional training includes Business Plan Writing, Core Skills for Building Commitment, Guiding Conflict Resolution, Facilitating Improved Performance, Negotiation Skills, Problem Solving and Time Management. These courses are being offered on an ongoing basis for new supervisors and supervisors/ managers being assigned to the department.

c. “Update Training” is done for CDLE staff whenever significant changes are made to the Department plan. CDLE Staff Development and the Office of Human Resources will conduct this training. Changes in the Performance Management System and in the Dispute Resolution Process will be explained and employees will have the opportunity to engage in a questions and answers session to clarify their understanding. OHR/P has conducted training for personnel involved in the Dispute Resolution Process and will repeat this training as necessary.

8. Summary.

CDLE has conducted a structured implementation process that involved all elements of the Department and drew upon various resources such as “Best Practices” (DPA website), published works of private consultants, published experiences of large-scale businesses and management literature. We feel we have developed a performance management and performance pay system that is effective and equitable but we are not finished. This is a dynamic system. We encourage and welcome suggestions and advice for improvement. Our hope and intention is for Colorado to be the benchmark for State government performance throughout the United States of America.

DISPUTE RESOLUTION PROCESS
DEPARTMENT OF LABOR AND EMPLOYMENT
Performance Pay System (PPS)
May 2, 2004

- I. The Dispute Resolution Process is an open and impartial proceeding to allow both parties the opportunity to have their issues heard and an optimal solution reached. Dispute Resolution moves away from a traditional adversarial system toward one that supports and encourages dialogue and communication to solve problems. The dispute resolution process is not a grievance or appeal. No party has an absolute right to legal representation, but may have an advisor present. It is an effort to find the truth and promote understanding. At the time the employee receives his/her performance evaluation or performance plan, and a conflict arises the employee is encouraged to proceed with any or all of the following:
- A. Informally discuss the dispute with the supervisor to achieve resolution;
 - B. Arrange to discuss the issue with the second-level supervisor (reviewing official) in an effort to pursue resolution;
 - C. Contact the CDLE-Office of Human Resources/Personnel (OHR/P) for a recommendation of a trained advisor. However, a party need not rely on a trained advisor. Anyone may be selected as an advisor. The advisor gives advice on the procedure, shares his/her knowledge of other cases and may confer on strategy for presentation of the issues. The parties are expected to represent and speak for themselves, but may have an advisor present in the mediation or panel review.
 - D. Contact OHR/P to inquire about the available options and procedures for review. The OHR/P may convey information only about rules, process and procedures, and may not advise the employee as to strategy or give any advice relating to the substance of the dispute.

Every effort shall be made by the parties to resolve the issue at the lowest possible level in a timely manner. Informal resolution before initiating the dispute resolution process is strongly encouraged but, if unsuccessful, the employee must contact the OHR/P to determine whether the dispute is reviewable under the Personnel Rules and Procedures (see Attachment A for relevant Dept. of Personnel Procedure). All days relevant to this process are understood to be **business days**. Time frames may be extended by mutual consent of the disputing parties. **Only issues originally presented in writing shall be considered throughout the dispute resolution process.**

- II. If the employee takes no action within five business days, the performance plan or evaluation is considered final. If the dispute is not resolved within **5** days of the employee's receipt of the performance plan or evaluation and the employee seeks further review, the employee must take

the action described in sections A or B below. If Panel Review is chosen first the dispute may not return to Mediation. The five day period shall not be considered to begin until meaningful discussion between the rater and the employees has reached an end. The employee may file a request for dispute resolution with the OHR/P on a form provided by the OHR/P. This form does not present the "argument;" only the notice that a dispute resolution is being requested. A copy of the disputed performance plan or evaluation should be attached to the request. The OHR/P will forward a copy of the request to the supervisor.

A. MEDIATION.

1. Mediation is available upon the request of the employee but both parties must agree to accept mediation. If either party refuses mediation the process will proceed to Panel review.
2. The OHR/P shall maintain a list of trained mediators. Within 3 days of receipt of the request for mediation, OHR/P shall provide to the parties the name of an available mediator on the list. A mediator may not be employed in the same Division or section as the disputing parties; such mediator would be ineligible for that dispute. If one of the parties states an objection to the mediator, the next mediator on the list shall be designated. Each party will be allowed one objection.
3. OHR/P shall contact the selected mediator and supply a copy of the disputed plan/evaluation to the mediator.
4. The mediation process shall terminate at the end of the scheduled meeting--the parties either having reached an agreement or having failed to do so. The authority of the final decision reached in the mediation is limited to reviewing the facts surrounding the current issue, within the limits of the Department program. At the close of the mediation, the mediator shall prepare a report on the prescribed form that summarizes the dispute and the outcome. The mediator and the parties shall sign the report, and a copy shall be supplied immediately to the parties. The mediator shall forward the original report to the OHR/P.
5. If the parties failed to reach an agreement as a result of mediation, the dispute will proceed to panel review.

B. PANEL REVIEW

1. The OHR/P shall maintain an alphabetical list of trained panel members. When a panel review is requested, OHR/P shall provide to each party the top three names from the list. In order to maintain a bias free environment, the panel will not include more than 1 member from the disputing parties section.
2. Within 2 business days of receiving the three names, each party may strike one name from the list, and shall immediately advise OHR/P. It will not be required to present a reason

for the striking. When a panel member is struck, that panel member moves to the "bottom" of the list and the next available panel member rotates into the slot just vacated. *Each party to the dispute is allowed ONE strike only.* The OHR/P shall, without undue delay, contact the selected panel members and forward to them the available documentation relating to the dispute. Any panel member retains the right to recuse himself/herself in the event of a perceived conflict in a given dispute, or for other appropriate reasons. Accordingly, the next name on the list will then rotate in.

3. There should always be a "surplus" of at least nine panel members available in the event of a recusal or other unplanned absence by a panel member, or the need arises for more hearings to be held. Because it is likely that most panel reviews will be requested and held within a 3-to-4 week period following the end of the performance plan period (roughly, May-June), it is recommended that panel members be available as needed during that time. If the disputed issue concerns a plan, and not a performance review, a panel could be convened as early as April. Therefore, panel members should be prepared to be available by April 1.

It is possible that an employee who is also a panel member may spend a large portion of that time period performing reviews. Therefore, supervisors of those panel members should be aware of this eventuality, and treat the absence accordingly. (For example, some of a panel member's "regular" workload may have to be covered in the same way as if he/she were on vacation.)

4. **Within 5 days** of the establishment of the panel, the following should occur:

(a) The panel members shall select a chairperson or to expedite the process, OHR/P may appoint one. The chairperson shall set the time, date, place of the panel review, upon consultation with the other panel members and the parties. The hearing should be set within this 5-day period or, if logistics will not permit, as soon as practicable.

(b) The panel hearing shall be informal but business-like. The hearing may be "in-person" or one or more parties may be accommodated via teleconference. Thought should be given to the order of presenters, length of time allowed each presenter, and any panel voting process. Either party may have an advisor present, but the advisor may not speak on behalf of the party (unless needed as a language translator). Both sides should present a precise, understandable statement of their position. It is recommended that the employee present first with the supervisor responding to the issues; however, there is no required format. The panel members may ask questions of the parties. The panel members shall be responsible for maintaining control, facilitating discussion, reminding others of their role and defining the scope of the review. It is recommended that a time limit of 2 hours be set for a hearing. Continuances are at the sole discretion of the panel.

(c) The panel renders a written recommendation, which must be approved by a majority of the panel members. The panel shall designate one member to write the final recommendation. A copy of the decision shall be provided to the parties and the

OHR/P. The OHR/P shall forward a copy of the recommendation to the appropriate appointing authority. Panel members are limited to addressing facts surrounding the current action and shall not substitute their judgment for that of the rater and reviewer, but may advise raters to follow the department program, correct errors or reconsider a performance rating or plan. Panel members also cannot render a decision that would alter the department pay program.

III. All time limits outlined above may be waived if mutually agreed by the parties, but performance planning and rating deadlines must be met. State imposed deadlines may not be waived (See Chapter 8 of the Personnel Board Rules and Personnel Director's Administrative Procedures.) The written recommendation of the panel is final unless the appointing authority does not accept the recommendation of the panel and decides on an alternate course of action. In such cases the appointing authority will present objections and decision to the Department Personnel Director. The Department Personnel Director will review them to ensure conformance with Department and State rules and procedures. If this final decision is unacceptable to the disputing party then the state rules for appeal will apply.

IV. Written notice must be given to employees at the completion of the internal stage of the dispute resolution process for issues disputable at the external stage. The notice must include deadlines and address for filing and the requirement to include a copy of the original written dispute and the Department's final decision. The State Personnel Director administers the external stage and may select a qualified neutral third party to review the matter. For an issue being reviewed at the external stage, the neutral third party will not substitute their judgment for that of the rater, reviewer, or the department's dispute resolution decision maker. The neutral third party has the authority to instruct a rater to follow the agency's program, correct an error or reconsider an individual's performance plan or final overall evaluation (P-8-18.) The neutral third party may also suggest other appropriate processes such as mediation. An appeal must be filed with the State Personnel Director within **5** business days of receipt of the final decision. This appeal must include copies of the original issues and the final decision. Final resolution of issues concerning the individual's performance plan (or lack of a plan) and the individual's performance evaluation shall occur at the Department (internal) level. These issues may not be appealed to the State Personnel Director. Only original issues involving the application of the department's performance pay program to the individual employee's performance plan or evaluation and full payment of the performance salary adjustment may proceed beyond the department level to the State Personnel Director, in accordance with the external process rules, after completion of the internal process. Appeals must be addressed to Department of Personnel and Administration, Attention: Appeals Processing, 1313 Sherman Street, Room 122, Denver CO 80203. The Director shall issue a written decision that is final and binding within 30 days.

V. The OHR/P shall maintain a record of each dispute and the resolution.

VI. Retaliation against any person involved in the dispute resolution process is prohibited.

ATTACHMENT A

The following are Administrative Procedures P-8-14 and P-8-15, issued by the Department of Personnel and Administration [4 CCR 801]:

DISPUTE RESOLUTION PROCESS (PPS ONLY)

P-8-14. Only the following matters are reviewable:

- A. The individual performance plan, including lack of a plan during the planning cycle;
- B. The individual performance evaluation;
- C. The application of an agency's performance management plan to the individual employee's plan and/or evaluation; and,
- D. Full payment of the award.

P-8-15. The following matters are not reviewable:

- A. The content of an agency's performance management plan;
- B. Matters related to the funds appropriated;
- C. The performance evaluations and awards of other employees; and,
- D. The amount of a performance award, unless the issue involves the application of the agency's performance management plan.

REQUEST FOR AGENCY MEDIATION SERVICES OF PERFORMANCE MANAGEMENT ISSUES

Employee Name _____

Employee ID Number _____

Organization Unit _____

Work Address _____

Work Phone _____ Work FAX _____

E-Mail Address _____

Supervisor's Name/Title/Address/Work Phone:

Team Appraisal? Yes _____ No _____

Reason for Request:

_____ Individual performance plan, including lack of a plan. *Attach a brief statement of the facts.*

_____ Individual performance evaluation. *Attach a copy of the performance plan, the rating, and a brief statement of the issues and supporting facts.*

_____ Application of the agency's performance management plan, policies, or processes to the individual employee's plan and/or evaluation. *Attach a copy of the performance plan and/or rating and a brief statement of the plan, policy or process that was misapplied and supporting facts.*

_____ Full payment of a performance award. *Attach a copy of the notice of award, record of payments, and a brief statement of explanation and supporting facts.*

Desired outcome _____

Mediator's Name (*for use by OHR/P*) _____

REQUEST FOR AGENCY PANEL REVIEW OF PERFORMANCE

MANAGEMENT ISSUES

Employee Name _____

Employee ID Number _____

Organization Unit _____

Work Address _____

Work Phone _____ Work FAX _____

E-Mail Address _____

Supervisor's Name/Title/Address/Work Phone:

Team Appraisal? Yes _____ No _____

Reason for Request:

_____ Individual performance plan, including lack of a plan. *Attach a brief statement of the facts.*

_____ Individual performance evaluation. *Attach a copy of the performance plan, the rating, and a brief statement of the issues and supporting facts.*

_____ Application of the agency's performance management plan, policies, or processes to the individual employee's plan and/or evaluation. *Attach a copy of the performance plan and/or rating and a brief statement of the plan, policy or process that was misapplied and supporting facts.*

_____ Full payment of a performance award. *Attach a copy of the notice of award, record of payments, and a brief statement of explanation and supporting facts.*

Desired outcome _____

CDLE DISPUTE RESOLUTION PROJECT

GROUND RULES AND GUIDELINES FOR PARTICIPANTS

It is important that all parties involved, in order to maintain fairness, and ensure quality in arriving at workable solutions to the problem, use the following ground rules. Open communication between the parties creates the greatest likelihood of reaching agreement.

GROUND RULES

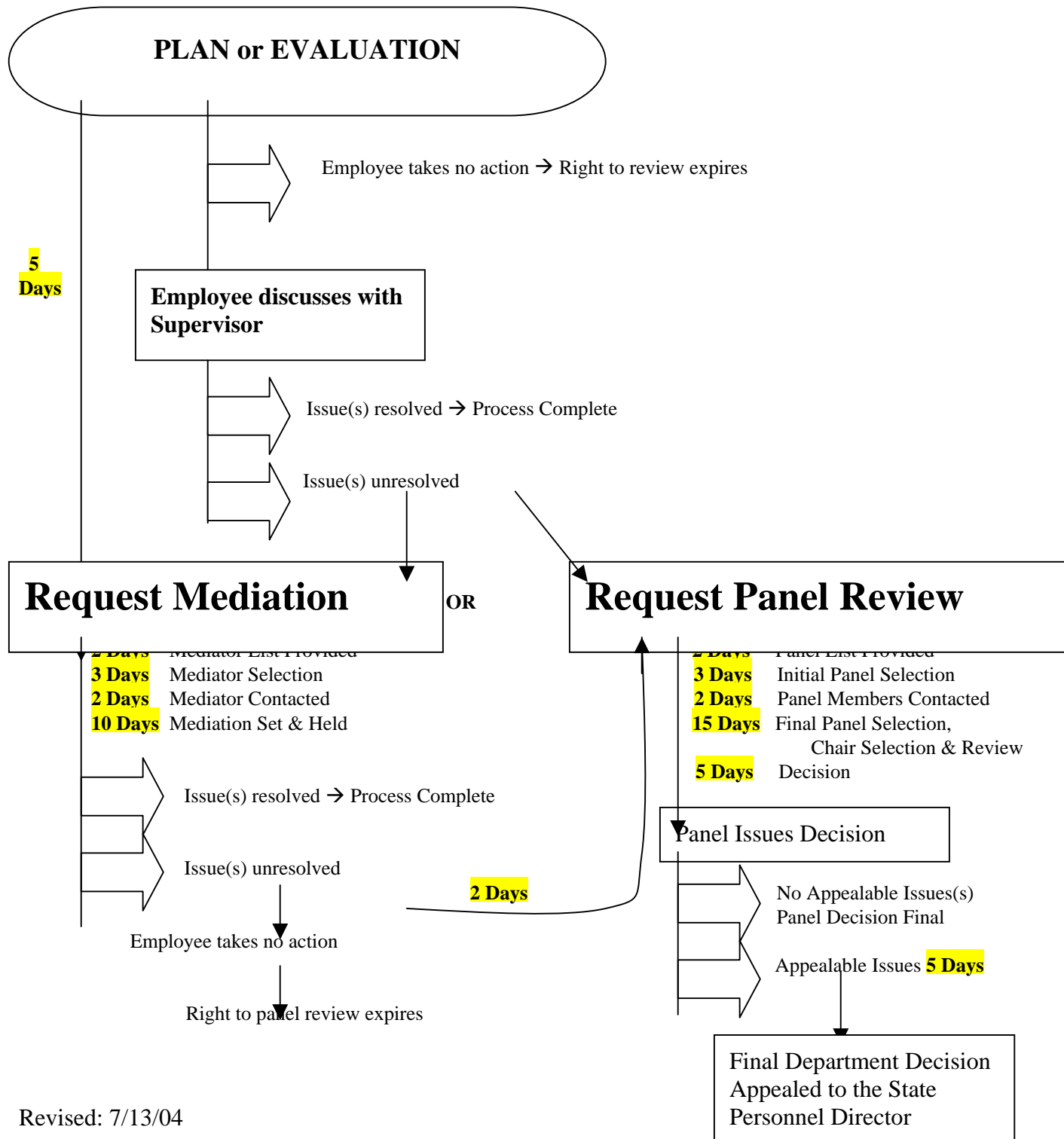
1. Confidentiality is essential.
2. Discuss the problem with the other party or with people both agree to involve in the resolution process. Ask your team for help only if both parties agree.
3. Attendance and promptness at scheduled meetings is mandatory.
4. Everyone has equal opportunity to be heard.
5. Interruptions should be kept to a minimum.
6. Statements should never include insults or sarcasm. Address the problem, not the person.
7. Agree and follow-up on task assignments.
8. Establish other ground rules by agreement.
9. Summarize what is agreed upon and what remains to be resolved at the end of each meeting.

The following are guidelines for consideration as a participant in the Dispute Resolution processes.

GUIDELINES

- Share all relevant information.
- Be specific – use examples.
- Focus on what you need, not on who is right or wrong.
- Respectfully disagree with any participant openly.
- Make statements, invite questions, and listen to the answers.
- Agree on what important words mean.
- Jointly design ways of testing agreements and solutions.
- Expect all members to identify and solve problems.

- Be as open as possible, but respect the right of privacy.
- Respect differences; don't discount others' ideas.
- Be supportive, not judgmental.
- Give timely feedback directly and openly.
- Focus on task and process, not on personalities or hidden agendas.
- Avoid sidetracking.



CDLE'S PERFORMANCE PLANNING AND REVIEW FORM

Identification			
Appraisal Period	From:	To:	
Name		ID#:	
Class Title:		Employee's Position Number:	
Unit Name:		Organizational Unit Number:	
Performance Planning Section			
This proposed Performance Plan was submitted by the employee on		DATE	
Leader's Signature I have reviewed and agree with the submitted Performance Plan:			Date:
Reviewer's Signature I have reviewed and agree with the submitted Performance Plan:			Date:
Employee's Signature I agree with the final Performance Plan:			Date:
End of Cycle Review			
The overall performance rating for the entire period was: LEVEL 1: 1 – 199 points LEVEL 2: 200 – 249 points LEVEL 3: 250 – 300 points To exceed 300 points and gain a LEVEL 4 (peak performer) rating see the attached criteria.			Total Points
Leader's Signature I agree with the End-of-Cycle performance evaluation:			Date:
Reviewer's Signature I agree with the End-of-Cycle performance evaluation:			Date:
Employee's Signature I agree with the End-of-Cycle performance evaluation:			Date:
The employee has the right to request a Dispute Resolution Review concerning this performance plan within 5 days following the date the leader has signed the plan or rating. (If the employee refuses to sign, the rater should so note and indicate the date on which the employee refused on line designated for the employee's signature. Such refusal does not extend the 5 days period for requesting a review.)			

Part 1. Objectives

Most Current as of February 2006

	Objective	Critical Success Factor	Tracking Sources	Actual Results
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
3 = exceeds expectations, 2 = meets expectations, 1 = needs improvement **The objectives for individuals in teams in the Division of Employment and Training must equal a total weight of 60. **The objectives for individuals not in teams must equal a total weight of between 75 and 95. The balance of weight points will be used under Competencies				Sub-total:

Performance Worksheet

Part 2. Competencies

Competency	Description	Factors
Communication	Effectively communicates by actively listening and sharing relevant information with co-workers, supervisors and customers so as to anticipate problems and ensure the effectiveness of the unit.	Listens and responds to others appropriately; Provides accurate and timely information; Expresses ideas and information clearly and effectively orally or in writing.
Interpersonal Skills	Interacts effectively with others to establish and maintain smooth working relations	Shows positive personal regard when dealing with others; respects other persons' time and priorities; is polite and courteous towards others; treats others fairly and without prejudice or bias; handles conflict constructively
Accountability	Demonstrates responsible personal and professional conduct, which contribute to the overall goals and objectives of the Department of Labor and Employment.	Shows personal/ professional pride in his/ her work; displays a high degree of honesty and integrity; conveys a positive/ professional image of the agency; complies with policies, procedures and rules. Demonstrates honesty; keeps commitments; behaves in a consistent manner.
Job Knowledge	Is skilled in job-specific knowledge which is necessary to provide the appropriate quantity and quality of work in a timely and efficient manner.	Completes assignments accurately and in a timely and efficient manner.
Customer Service	Works effectively with internal/ external customers to satisfy service expectations.	Identifies who his/ her customers are and treats them appropriately; meets customer expectations in a timely manner.
3 = exceeds expectations, 2 = meets expectations, 1 = needs improvement **The competencies for individuals in teams in the Division of Employment and Training must equal a total weight of 40. **The competencies for individuals not in teams must equal a total weight of between 25 and 5. The balance of weight points will be used under Objectives		Sub-total Objectives: Sub-total Competencies:
		Total:

Most Current as of February 2006

Performance Worksheet	
Part 3: The Development Plan	
Learning Need	Developmental Activities

Performance Worksheet	
Part 4: Reviews	
Interim Reviews/Coaching Log	
Date	Details of Discussion/Action

Performance Worksheet
Part 5: End-of-Cycle Reviews
Employee's Comments:
Leader's Comments:

Definition of Level 4

This rating represents consistently exceptional and documented performance or consistently superior achievement beyond the regular assignment. Employees make exceptional contribution(s) that have a significant and positive impact on the performance of the unit or the organization and may materially advance the mission of the organization.

The employee provides a model for excellence and helps others to do their jobs better. Peers, immediate supervision, higher-level management and others can readily recognize such a level of performance.

Definition of Level 3

This rating level encompasses the accomplished performers who consistently exhibit the desired competencies effectively and independently while frequently exceeding expectations, standards, requirements, and objectives of the job assigned. Their work has a documented impact beyond the regular assignments and performance objectives that directly supports the mission of the organization.

Definition of Level 2

This rating level encompasses a range of expected performance. It includes those employees who exhibit competency in the work behaviors, skills, and assignments for the job as well as those employees who are successfully developing in the job. These employees are meeting all the expectations, standards, requirements, and objectives on their performance plan and, on occasion, may exceed them. This is the employee who reliably performs the job assigned.

Definition of Level 1

This rating level encompasses those employees whose performance does not consistently and independently meet expectations set forth in the performance plan as well as those employees whose performance is clearly unsatisfactory and consistently fails to meet requirements and expectations.

Marginal performance requires substantial monitoring to achieve consistent completion of work , and requires more constant, close supervision. Though these employees do not meet expectations, they may be progressing satisfactorily toward a level 2 rating and need to demonstrate improvement in order to satisfy the core expectations of the position.

Achieving Peak Performer

CDLE employees may become eligible for the rating of “Peak Performer” (Level 4) by meeting at least one of the following two sets of criteria with subsequent review and approval by the Department Management Team:

6. Consistently exceeding performance expectations and/or
7. Making a significant contribution that is unique or unusual

Employees whose performance rating is in the Level 3 range may qualify for peak performer under either set of criteria. Employees whose performance rating is in the Level 2 range may qualify only under criteria b.

b. Consistently exceeding performance expectations

Under this criterion, “peak performers” meet expectations in all relevant competency areas that include the core competencies and exceed expectations in most of these areas. Peak Performers are not required to meet all ten of these criteria. This level of performance is maintained throughout the duration of the rating period.

Peak performing employees may exceed performance expectations by consistently:

1. Taking the initiative to identify and complete unassigned work that contributes to the mission of the organization.
2. Volunteering and achieving success in solving problems and perform work outside their scopes of responsibility.
3. Exerting persistent effort above and beyond what is expected in order to meet business objectives.
4. Trying new solutions with an aggressive, go-getter attitude.
5. Completing work objectives ahead of schedule.
6. Completing work objectives using fewer financial resources, personnel, equipment or other resources than allocated.
7. Putting extra effort into improving work processes and/or exceeding product specifications.
8. Exceeding customer expectations regarding the quality of service provided.
9. Operating as team players by assisting others in accomplishing their work objectives.
10. Exceptionally high production levels within a measurable activity.

Under this criterion of “Peak Performance” employees “**consistently**” perform at this higher level on a project-after project, activity-after activity basis across most of all relevant objectives and competencies. Except for unusual circumstances, employees receiving a “needs improvement” (Level 1) rating in any objective or competency do not receive overall “peak performer” ratings.

c. Making a significant contribution that is unique or unusual.

Under this criterion of “peak performer” (Level 4), employees make a unique or unusual contribution that **significantly** advances the mission of the organization. This type of “peak performer” meets performance expectations in most objectives and competencies but may exceed performance expectations in a single objective or competency during the rating period. This unique or unusual contribution provides a **significant** benefit to the organization. Examples of a unique contribution that may contribute to a rating of “peak performer” (Level 4) include:

1. Exceptionally high production levels within a measurable activity.
2. Innovation of or improvement to a process that contributes significantly to increased quality, effectiveness or efficiency.
3. Design and implementation of product enhancements that significantly improve the flexibility, safety, or ease of use of that product.
4. Identification and implementation of an important new technology.
5. Exceptional response to an unforeseen event.

A single unique or unusual contribution during a rating period does not necessarily provide sufficient evidence for a “peak performer” (Level 4) rating. Other aspects of the employee’s performance are also taken into consideration when determining the final performance. Adequate documentation for a

Most Current as of February 2006

contribution under criterion b. will need to be presented at the time of review at the rating official level.